

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

BOSTON GENERATING, LLC,

Debtor.

Case No. 10-14419-lgb

New York, New York

November 9, 2022

10:07 a.m. - 10:11 a.m.

MARK HOLLIDAY, the Liquidating
Trustee of BosGen Liquidating Trust,
Plaintiff,

- against -

SULLIVAN et al,

Defendants.

Adv. Pro. 12-01879 (lgb)

TRANSCRIPT RE 10-14419-LGB

BOSTON GENERATING, LLC

CHAPTER 11

ADVERSARY PROCEEDING: 12-01879-LGB

MARK HOLLIDAY, THE LIQUIDATING TRUSTEE OF THE BOSGEN

LIQUIDATING TRUST VS. SULLIVAN ET AL

MOTION TO APPROVE COMPROMISE / MOTION FOR ORDER APPROVING
STIPULATION OF SETTLEMENT PURSUANT TO F. R. BANK. P. 9019(A)
FILED IN ADVERSARY PROCEEDING NO. 12-01879 (LGB)

MOTION TO APPROVE COMPROMISE / MOTION FOR ORDER APPROVING
STIPULATION OF SETTLEMENT PURSUANT TO F. R. BANK. P. 9019(A)

BEFORE THE HONORABLE LISA G BECKERMAN

UNITED STATES BANKRUPTCY JUDGE

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(Proceedings recorded by electronic sound recording)

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1 THE COURT: Good morning. This is Judge Beckerman.
2 Court is now in session. I'm going to go ahead and call the
3 cases. When I do I'll ask each attorney to please identify
4 themselves for the record. And then when you're speaking,
5 please also identify yourself. Case Number 12-01879, Mark
6 Holliday, Liquidating Trustee of the Boston Generating Group v.
7 Sullivan et al. May I have appearances of counsel, please?

8 MR. SILVERSTEIN: Good morning, Your Honor, it's Paul
9 Silverstein from Hunton Andrews Kurth for Mark Holliday.

10 MR. GUFFY: Good morning, Your Honor, Philip Guffy,
11 also from Hunton Andrews Kurth, also for Mark Holliday.

12 THE COURT: Thank you. Any other appearances of
13 counsel? All right. Mr. Silverstein/Mr. Guffy, I guess I'll
14 turnover the virtual podium to you.

15 MR. SILVERSTEIN: Thank you, Your Honor. This is
16 another settlement in the Holliday v. K Road adversary
17 proceeding, you identified as 12-01879 against a named defendant
18 in that action. That named defendant here is Highland Crusader
19 Offshore Partners LP, which is being sued under the complaint
20 for approximately 2.88 million. We are settling this matter for
21 a \$200,000 cash payment. The settlement agreement is
22 substantially the same as Your Honor has approved on two prior
23 settlements, and as your predecessors previously approved the
24 two other settlements.

25 The trustee's appeal of the order dismissing the

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1 complaint was recently argued before the 2nd Circuit on September
2 28th of this year. We are awaiting a decision from the 2nd
3 Circuit. The trustee believes that the settlement is within the
4 lowest range of reasonableness, the governing standard under
5 Bankruptcy Rule 9019, and we ask that the settlement be approved
6 based on the facts and the law set forth in our motion. That's
7 really all I have.

8 THE COURT: Okay, thank you.

9 MR. SILVERSTEIN: Thank you.

10 THE COURT: Thank you, Mr. Silverstein. I have a
11 question for you. I assume there are still other parties I the
12 action, other potential defendants. That's why your appeal is
13 still going forward, right? Resolving this doesn't resolve your
14 appeal, it just resolves it with respect to this one party. Is
15 that correct?

16 MR. SILVERSTEIN: Yes, that is absolutely correct.

17 THE COURT: And how many parties are still left?
18 Sorry, since I wasn't involved in the first time, I don't know.

19 MR. SILVERSTEIN: That's a good question. I don't
20 know that off the top of my head, but the simple answer is many.

21 THE COURT: Okay. That's fine. Thank you. That's
22 sufficient.

23 MR. SILVERSTEIN: More than just a couple. There are
24 many defendants. I don't know the exact number, I apologize for
25 that.

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1 THE COURT: No, that's all right. You've answered my
2 question. Thank you. All right. So, I have reviewed the
3 motion. I've also reviewed the actual settlement agreement, and
4 I find that the proposed settlement here does satisfy the 9019-
5 standard. Mr. Silverstein noted the lowest level of
6 reasonableness. I also know that, obviously, but for this
7 settlement, the parties would be continuing to litigate,
8 obviously expend funds. There's certainly a reasonable
9 likelihood that the liquidating trustee here might not succeed
10 ultimately in the litigation, and therefore would have spent
11 funds, would not have received the funds, so the settlement is
12 certainly above the lowest level of reasonableness here,
13 especially, given that the litigation is on its second level of
14 appeal. So, I'm going to go ahead and grant the motion, and
15 I'll be happy to enter the order approving the settlement.

16 MR. SILVERSTEIN: Thank you, Your Honor. May we
17 upload an order, and may we be excused?

18 THE COURT: Yes. Both. So, at beckerman.chambers
19 @nysb.uscourts.gov. And yes, I wish you a good day. You and
20 Mr. Guffy may now be excused. And I'm going to go ahead and
21 call the next case. And it's always nice to see you again, Mr.
22 Silverstein.

23 MR. SILVERSTEIN: Thank you, Your Honor. I look
24 forward to seeing you in person some day.

25 THE COURT: Yes, it might happen.

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MR. SILVERSTEIN: It might.

MR. GUFFY: Thank you, Your Honor. Good-bye.

THE COURT: Thank you.

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CERTIFICATION

I, Rochelle V. Grant, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.



November 14, 2022